

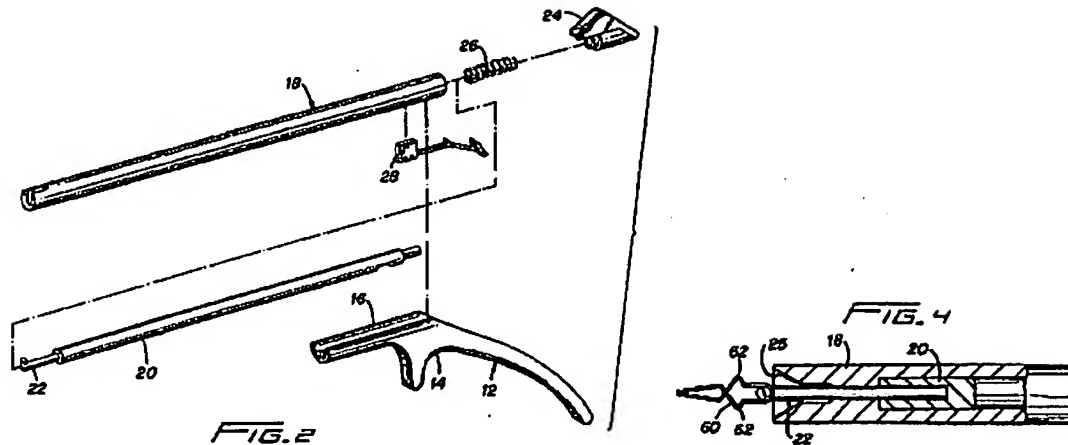
REMARKS/ARGUMENTS

The above-identified application has been reviewed in light of the Office Action mailed on December 28, 2007. By the present amendment, the applicants have amended claim 63, and added claims 69 and 70. It is respectfully submitted that the pending claims, in the application, are fully supported by the specification, introduce no new matter, and are patentable over the cited references of record.

In the Office Action, claim 63 was rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,792,149 to Sherts et al. (Sherts). The Office Action stated that Sherts discloses a clamp applicator including a grip assembly which has a magazine passage adapted to hold the blood vessel clip.

Claim 63, as amended, recites an apparatus for applying a blood vessel clip including, *inter alia*, a magazine passage "adapted for storing at least one blood vessel clip therein,"

As shown in FIG. 2, Sherts discloses "the distal end of hook portion 22 extends from the distal end of actuating sleeve 18, thus permitting a clamp 60 to be supported on the hook 22." (Col. 4, lns. 51-53). As disclosed by Sherts, a clamp 60 is placed on to the hook 22 when needed. Thus, hook 22 is incapable of storing any of the clamps 60. Further still, as seen in FIG. 2 below, the elongated rod 20 "is provided with a distal hook 22 for engaging a clamp." (Col. 3, ln 65 - Col 4, ln 1). Finally, FIG. 4 is a cross section of Sherts with a clamp placed upon the hook. As clearly shown, there are no disclosed or suggested structures in Sherts for storing clips as recited in claim 63 since Sherts appears to be directed towards an instrument requiring that a clamp be positioned on the instrument just prior to installing the clamp.



Therefore, Sherts fails to disclose or suggest an apparatus for applying a blood vessel clip including a magazine passage, *inter alia*, “adapted for storing at least one blood vessel clip therein” as recited in amended claim 63. Accordingly, it is respectfully submitted that the rejection of the Office Action has been overcome and that claim 63 is in condition for allowance.

In the Office Action, claims 64-68 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sherts in view of U.S. Patent No. 4,934,364 to Green (Green). According to the Office Action, Green discloses at least one pin attached to the distal end of the barrel (FIG. 21, 22 element 160).

The Office Action asserted that it would have been obvious to modify Sherts by incorporating the aforementioned elements of Green in order to assist in removing the clip from the end of the device.

As discussed hereinabove, Sherts fails to disclose or suggest the apparatus for applying a blood vessel clip as recited in amended claim 63. Green discloses a thumb ring for actuating the disclosed clip applier. Although, the Office Action mischaracterized Green’s thumb ring as “pins” for the purpose of the obviousness rejection, the alleged “pins” of Green fail to cure the deficiencies of Sherts. Therefore, since claims 64-68 depend from independent claim 63, it is

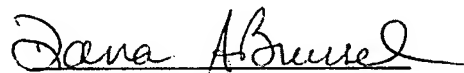
Application Serial No. 10/751,579
Amendment dated March 12, 2008
Reply to Office Action mailed December 28, 2007
Docket: 2517DIV2CON (203-3449DIV2CON)

respectfully submitted that the rejection of the Office Action has been overcome and that claims 64-68 are in condition for allowance.

Applicant has added new claims 69-70. Since claims 69 and 70 depend indirectly from independent claim 63 and contains all the features of claim 63, Applicant respectfully submits that claims 69 and 70 are patentable over the references of record and are in condition for allowance.

Prompt and favorable action on the above-identified application is earnestly requested. Should the Examiner desire a telephonic interview to resolve any outstanding matters, the Examiner is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,



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